

1999 DRAFTING REQUEST**Bill**Received: **02/03/2000**Received By: **mdsida**Wanted: **As time permits**

Identical to LRB:

For: **Health and Family Services 6-3262**By/Representing: **Kevin Lewis**

This file may be shown to any legislator: NO

Drafter: **mdsida**

May Contact:

Alt. Drafters:

Subject: **Criminal Law - miscellaneous**Extra Copies: **jeo**

Pre Topic:

No specific pre topic given

Topic:

Causing or threatening bodily harm to DHFS employees and county social service workers

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Reauired</u>
/?	mdsida 03/09/2000	jgeller 03/10/2000		_____			
/P1			martykr 03/10/2000	_____	lrb-docadmin 03/10/2000		
/1	mdsida 03/23/2000	jgeller 03/23/2000	jfrantze 03/24/2000	_____	lrb-docadmin 03/24/2000	lrb-docadmin 03/24/2000	

FE Sent For:

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Page 1

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FE Sent For:

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Dsida., Michael

From: Lewis, Kevin
Sent: Friday, January 28, 2000 12:01 PM
To: Dsida, Michael; Dsida, Michael
Subject: threats/battery to county, DHFS employees



Threats and Battery
to DHFS Em... I've attached the DHFS proposal that I mentioned in our phone conversation. I am working on obtaining sponsors in both senate and assembly. In the meantime, can you please draft this at the request of DHFS? I am of course amenable to any necessary changes to our proposed language. Our draft was just to establish a discussion piece and something to bounce off of legislators.

Thank you.

Kevin Lewis
DHFS Legislative Liaison
266-3262

John Kiesow - ~~make~~ a cover agents of
county agencies.

Threats and Battery to DHFS Employees & County Social Service Workers

Due to the nature of their work, Department of Revenue, Department of Commerce and Department of Workforce Development employees are given special status under our laws. Under Chapter 940, it is a Class D felony for anyone who intentionally causes bodily harm or threatens to cause bodily harm to an employee of these departments (or a member of his or her family) while the employee is acting in an official capacity at the time the harm or threat against him is perpetrated. In order to be found guilty under this penalty language, the perpetrator must have known or should have known that the target of the harm or threat is an official, employee or agent (or a member of his or her family) of the DOR, DWD or Department of Commerce. This language provides an appropriate shield to employees working in investigative and regulatory roles that can demand enforcement action to uphold our laws and protect public safety.

DHFS staff such as children's licensing staff, Bureau of Milwaukee Child Welfare employees, surveyors, Division of Public Health employees and others also carry out sensitive activities such as investigating complaints, monitoring programs, taking enforcement action, providing safety services and other duties. In the Secretary's recent Regulation and Licensing Re-engineering Project it was recommended that Chapter 940 similarly recognize this work of DHFS employees by including them under this shield.

Accordingly, DHFS seeks to amend s. 940.207 so that the section will read as follows:

940.207 Battery or threat to department of commerce, department of health and family services, county social service worker or department of workforce development employee.

(1) In this section:

- (a) "family member" means a parent, spouse, sibling, child, stepchild, foster child or treatment foster child.
- (b) "county social service worker" means an official or employee of a county department of human services, a county department of social services, a county department of community programs or a county department of developmental disabilities services.

(2) Whoever intentionally causes bodily harm or threatens to cause bodily harm to the person or family member of any county social service worker, or department of commerce, department of health and family services, or department of workforce development official, employee or agent under all of the following circumstances is guilty of a Class D felony:

- (a) At the time of the act or threat the actor knows or should have known that the victim is a county social service worker or department of commerce, department of health and family services, or department of workforce development official, employee or agent or a member of his or her family.
- (b) The official, employee or agent is acting in an official capacity at the time of the act or threat or the act or threat is in response to any action taken in an official capacity.
- (c) There is no consent by the person harmed or threatened.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-4473/2

MGD:.....

SOON

19

PRELIMINARY **DRAFT - NOT READY FOR INTRODUCTION**

gen

1 **AN ACT ...; relating to:** threats to or battery of employees of department of health and family services or county social service agencies and providing a penalty.

2

is also greater than the penalty for battery in general

Analysis by the Legislative Reference Bureau

Current law prohibits a person from making certain threats to cause bodily harm to the person or family member of a judge, a witness or an official, employee or agent of the department of revenue (DOR), department of commerce or department of workforce development (DWD). Current law also provides higher than normal penalties for a battery committed under certain circumstances against one of these individuals.

This bill prohibits certain threats to cause bodily harm to the person or family member of an official, employee or agent of the department of health and family services (DHFS) or a county social service agency. A county social service agency is defined in the bill to mean a county department of human services, a county department of social services, a county department of community programs or a county department of developmental disabilities services. The bill also increases the penalty for battery committed under certain circumstances against one of these individuals (making it identical to the penalty imposed for battery committed against an official, employee or agent of DOR, department of commerce or DWD under comparable similar circumstances). A threat is covered by this prohibition and the penalty for the battery is increased if: 1) the person making the threat or committing the battery knows or should have known that the victim is an official, employee or agent of DHFS or a county social service agency or a member of the official's, employee's or agent's family; 2) at the time of the threat or battery, the victim is acting in his or her official

capacity or the threat is made or the battery is committed in response to any action taken in an official capacity; and 3) the victim did not consent to the threat or the harm. A person who violates this prohibition may be imprisoned for up to ~~10~~ ^{ten} years, fined up to \$10,000 or both.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 940.207 (title) of the statutes is amended to read:

940.207 (title) **Battery or threat to department of commerce or, department of health and family services, department of workforce development or county social service agency employee.**

History: 1993 a. 86, 446; 1995 a. 27 ss. 7227 to 7229, 9116 (5), 9130 (4); 1997 a. 3.

SECTION 2. 940.207 (1) of the statutes is amended to read:

940.207 (1) In this section, "family section":

(b) "Family member" means a parent, spouse, sibling, child, stepchild, foster child or treatment foster child.

History: 1993 a. 86, 446; 1995 a. 27 ss. 7227 to 7229, 9116 (5), 9130 (4); 1997 a. 3.

SECTION 3. 940.207 (1) (a) of the statutes is created to read:

940.207 (1) (a) "County social service agency" means a county department of human services, county department of social services, county department of community programs or county department of developmental disabilities services.

SECTION 4. 940.207 (2) (intro.) of the statutes is amended to read:

940.207 (2) (intro.) Whoever intentionally causes bodily harm or threatens to cause bodily harm to the person or family member of any department of commerce or, denartment of health and familv services, department of workforce development or county social service agency official, employe or agent under all of the following circumstances is guilty of a Class D felony:

History: 1993 a. 86, 446; 1995 a. 27 ss. 7227 to 7229, 9116 (5), 9130 (4); 1997 a. 3.

1 **SECTION** 5. 940.207 (2) (a)^X of the statutes is amended to read: .

2 940.207 (2) (a) At the time of the act or threat, the actor knows or should have
3 known that the victim is a department of commerce ~~or~~, denartment of health and
4 family services, department of workforce development or [✓] county social service
5 agency official, employe or agent or a member of his or her family

6 History: 1993 a. 86,446; 1995 a. 27 ss. 7227 to 7229, 9116(5), 9130 (4); 1997 a. 3.

(END)

Dsida. Michael

From: Lewis, Kevin
Sent: Thursday, March 23, 2000 3:53 PM
To: Dsida, Michael
Subject: LRB 4473

I know this is very late in the session for much expectation of passage, but DHFS would like to have LRB 4473 introduced provided some changes are made.

Specifically, we would like to remove any reference to county social service agencies. This then would only leave the need to include DHFS in the list of agencies treated under 940.207 (title), **940.207(2)(intro.)** and (2)(a).

Please let me know if you have any questions. Thank you.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-4473/P1

MGD:jlg:km

Rmr

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SOON

Reger

- 1 **ANACT** *to renumber and amend 940.207 (1); to amend* 940.207 (title), 940.207
2 (2) (intro.) and **940.207 (2)** (a); and *to create* 940.207 **(1)** (a) of the statutes;
3 **relating to:** threats to or battery of employes of department of health and
4 family services or county social service agencies and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits making certain threats to cause bodily harm to the person or family member of a judge, a witness or an official, employe or agent of the department of revenue (DOR), department of commerce or department of workforce development (DWD). Under current law, the penalties for a battery committed under certain circumstances against one of these individuals is also greater than the penalty for battery in general.


This bill prohibits making certain threats to cause bodily harm to the person or family member of an official, employe or agent of the department of health and family services (DHFS) or a county social service agency. A "county social service agency" is defined in the bill as a county department of human services, a county department of social services, a county department of community programs or a county department of developmental disabilities services. The bill also increases the penalty for battery committed under certain circumstances against ~~one of these individuals~~ (making it identical to the penalty imposed for battery committed against an official, employe or agent of DOR, department of commerce or DWD under comparable circumstances). A threat is covered by this prohibition and the penalty for the battery is increased if: 1) the person making the threat or committing the

an official,
employe
or agent of
DHFS

battery knows or should have known that the victim is an official, employee or agent of DHFS or ~~county social service agency~~ or a member of the official's, employee's or agent's family; 2) at the time of the threat or battery, the victim is acting in his or her official capacity or the threat is made or the battery is committed in response to any action taken in an official capacity; and 3) the victim did not consent to the threat or the harm. A person who violates this prohibition may be imprisoned for up to ten years, fined up to \$10,000 or both.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 940.207 (title) of the statutes is amended to read:

2 940.207 (title) **Battery or threat to department of commerce** ~~or~~ 
3 **department of health and family services,** ~~department of workforce~~
4 **development or county social service agency** employee.

5 **SECTION 2.** 940.207 (1) of the statutes is renumbered 940.207 (1) (intro.) and
6 amended to read:

7 940.207 (1) (intro.) In this section, "family section."

8 (b) "Family member" means a parent, spouse, sibling, child, stepchild, foster
9 child or treatment foster child.

10 **SECTION 3.** 940.207 (1) (a) of the statutes is created to read:

11 940.207 (1) (a) "County social service agency" means a county department of
12 human services, county department of social services, county department of
13 community programs or county department of developmental disabilities services.

14 **SECTION 4.** 940.207 (2) (intro.) of the statutes is amended to read:

15 940.207 (2) (intro.) Whoever intentionally causes bodily harm or threatens to
16 cause bodily harm to the person or family member of any department of commerce
17 ~~or~~ department of health and family services, department of workforce development

 ~~or~~ ← plain

1 ~~or county social service agency~~ official, employe or agent under all of the following
2 circumstances is guilty of a Class D felony:

3 **SECTION 5.** 940.207 (2) (a) of the statutes is amended to read:

4 940.207 (2) (a) At the time of the act or threat, the actor knows or should have
5 known that the victim is a department of commerce ~~or~~ department of health and
6 family services, department of workforce development ~~or county social service~~
7 ~~agency~~ ^{or plain} official, employe ~~or agent~~ or a member of his or her family.

8 (END)

**SUBMITTAL
FORM**

LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and **sign** on the appropriate line(s) below.

Date: 03/24/2000

To: Health and Family Services (Kevin Lewis)

Relating to LRB drafting number: LRB-4473

Topic

Causing or threatening bodily harm to DHFS employees and county social service workers

Subject(s)

Criminal Law - miscellaneous

1. **JACKET** the draft for introduction

in the **Senate** or the **Assembly** (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Michael Dsida, Legislative Attorney
Telephone: (608) 266-9867